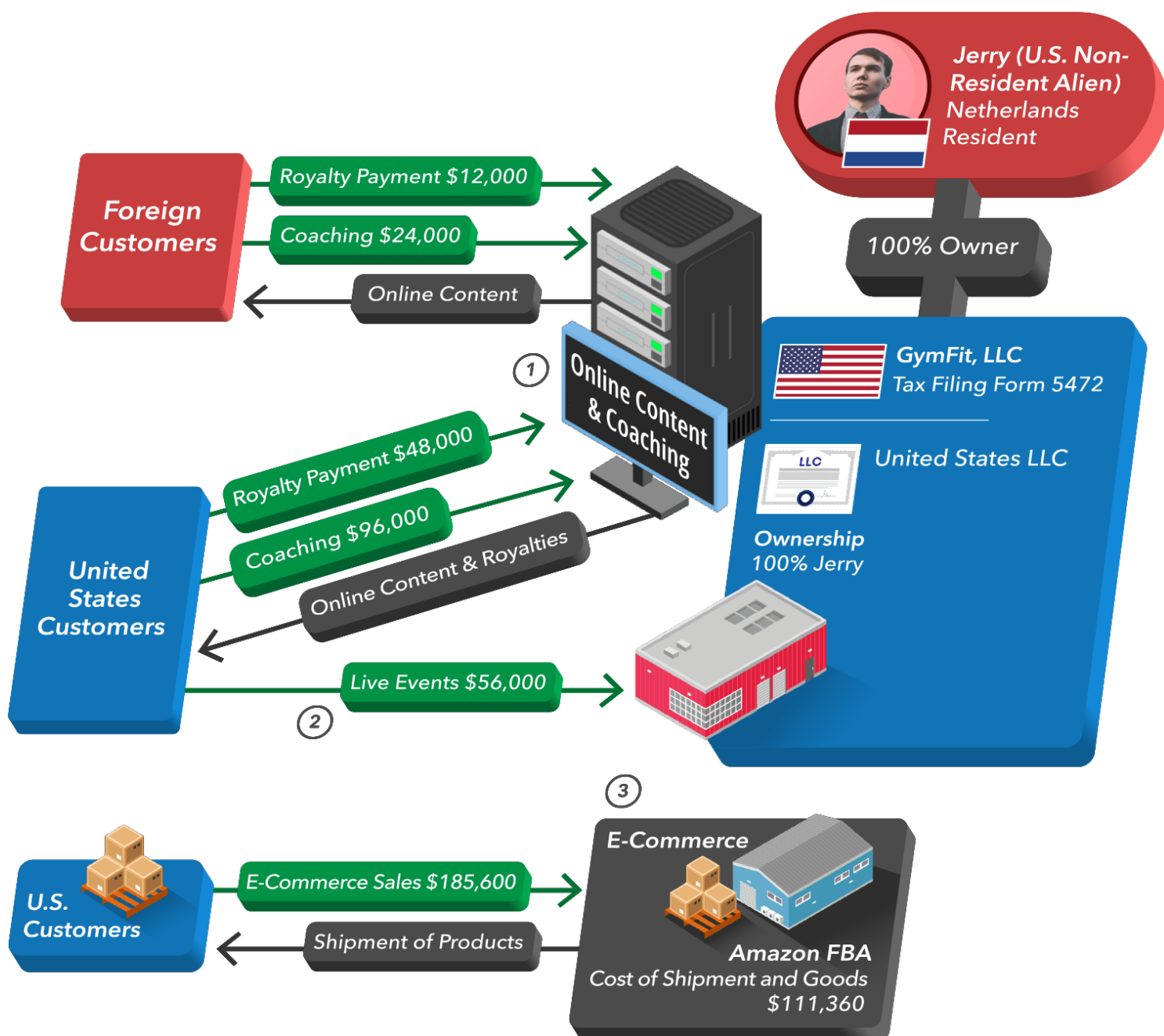


Netherlands NRA Royalties, E-Commerce, and Events from SMLLC

Tax Structures of United States Foreign-Owned LLCs - Structure #9

Structure Summary

A Non-Resident Alien residing in the Netherlands is exempt from U.S. income tax based on a tax treaty exclusion and no Permanent Establishment in the United States. Additionally, online coaching content sold to U.S. customers is subject to a special 0% tax rate for Dutch residents.



Netherland NRA Royalties, E-Commerce, and Events from SMLLC

Structure Background

GymFit, LLC, a United States limited liability company, offers a variety of online content, physical goods, online coaching, and hosts live fitness events in the United States.

Jerry is a resident of the Netherlands and the sole owner of GymFit, LLC. He maintains his offices in the Netherlands and is not physically present in the United States. As a Single-Member LLC (SMLLC), GymFit, LLC is classified as a disregarded entity for Federal tax purposes per Treasury Regulation § 301.7701-3.

The following is a summary of the products sold:

1. Online Content. The majority of online content sold is to U.S. customers, with the remaining portion going to foreign customers.
2. Coaching Services. Jerry provides online coaching services from his working location in the Netherlands.
3. Live Events. Throughout the year, there are live events locations in the United States.
4. E-Commerce: Physical products are sold and shipped through Amazon FBA warehouse located in the United States and directly to U.S. customers.

Source and Taxation of Royalty Income (Online Content)

For the use of copyrighted content (either used as a web application subscription or one-time purchase), royalties are sourced where the property was used per Internal Revenue Code § 861.

Based on the Tax Treaty rate of Royalties earned in the United States, residents of the Netherlands are taxed at a flat rate of 0%.

Source and Taxation of Coaching Services

As Jerry provides coaching services while in the Netherlands, the source of income is a foreign source based on the location of the service provided.

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Source and Taxation of Live Events

As Jerry provides live events locations in the United States, the source of income is U.S.-source based on the location of service provided.

Source and Taxation of Physical Goods (E-Commerce)

All sales in the United States are sold and fulfilled through Amazon FBA. Once manufactured, the widgets are shipped directly from the supplier to an Amazon FBA warehouse in the United States. Once sold to a customer, the goods are then shipped from Amazon's warehouse directly to customers throughout the United States. Amazon then pays GymFit, LLC for the revenue related to the purchase of goods (less any fulfillment/shipping fees).

Although the sale of goods from Amazon FBA warehouse to the U.S. customer is considered Effectively Connected Income (ECI) earned by the LLC per IRC 864(c)(3), as the result of sale of inventory attributable to a U.S. shipping and destination location per IRC, §865(e)(2) and 882, the business profits of the Limited Liability Company (and that of its Sole Non-Resident Owner) qualifies for a Tax Treaty Exclusion under the Netherlands-U.S. Income Tax Treaty Articles 5 and 7.

Article 5 of the Netherlands-U.S. Tax Treaty describes the definition of a Permanent Establishment.

Article 7 of the Tax Treaty states, "Industrial or commercial profits of a resident of one of the Contracting States shall be exempt from tax by the other Contracting State unless the resident has a permanent establishment in that other Contracting State."

Monetary Transactions & Accounting

1. GymFit, LLC sells Online Content and Coaching Services. From foreign customers the LLC receives Royalties for content of \$12,00 and Coaching of \$24,000. From U.S. customers, the LLC receives Royalties of \$48,000 and Coaching of \$96,000.
2. GymFit, LLC hosts live events in the United States of which \$56,000 was earned.
3. E-Commerce Sales to U.S. customers were \$185,600 with Cost of Goods Sold of \$111,360.
4. GymFit, LLC has Net Income of \$254,240

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U.S. Tax Filing Compliance

5. **Form 1040NR (Jerry).** As a sole owner of the disregarded LLC, Jerry files [Form 1040NR, U.S. Nonresident Alien Income Tax Return](#), to report the live events on Schedule C of \$56,000, resulting in an effective tax rate of 10% and resulting income tax of \$5,600. Additionally, U.S. source royalty income of \$48,000 is taxed at a 0% rate for \$0 of withholding tax. Additionally, a Tax Treaty exclusion is claimed on [Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701\(b\)](#) for the E-Commerce widget sales. The tax treaty article that directly applies is Article 7, Business Profits.

Summarized Tax Returns and Financial Statements

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GymFit, LLC Income Statement	
Online Content (Foreign Royalties)	\$12,000
Online Content (U.S. Royalties)	\$48,000
Coaching Services to U.S./Foreign Clients	\$120,000
Live Events in U.S.	\$56,000
E-Commerce Sales (U.S Locations)	\$185,600
Cost of Goods	- \$111,360
Net Income	\$254,240

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Form 1040NR	Jerry
Schedule C	
Live Events	\$56,000
Federal Income Tax	\$5,600
Schedule NEC	
Total U.S. Source Royalty Income	\$48,000
Royalty FDAP Withholding (Netherlands)	0%
Withholding Tax	\$0

Form 8833
Tax Treaty Exemption (Article 7) E-Commerce Sales

Resulting Tax Implications

As a result of this structure, the U.S. tax liability of Jerry (as a Disregarded Entity Single Member LLC owner of GymFit, LLC) is \$5,600, as the result of U.S. source income from live events within the country.